

AMENDED IN SENATE AUGUST 24, 2006
AMENDED IN SENATE AUGUST 30, 2005
AMENDED IN SENATE AUGUST 15, 2005
AMENDED IN SENATE JULY 6, 2005
AMENDED IN SENATE JUNE 23, 2005
AMENDED IN ASSEMBLY MAY 17, 2005
AMENDED IN ASSEMBLY MAY 3, 2005
AMENDED IN ASSEMBLY APRIL 25, 2005
AMENDED IN ASSEMBLY APRIL 19, 2005
AMENDED IN ASSEMBLY APRIL 6, 2005
AMENDED IN ASSEMBLY MARCH 17, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 371

Introduced by Assembly Member Goldberg

February 11, 2005

An act to ~~amend Section 13260 of, and to add Sections 13555.5 and 13557 to;~~ the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 371, as amended, Goldberg. Water recycling.

~~(1) The Porter-Cologne Water Quality Control Act requires certain entities required to file a waste discharge report with the State Water~~

~~Resources Control Board to submit an annual fee according to a fee schedule established by the state board.~~

~~This bill would require the state board, for the purpose of establishing the amount of a fee that may be imposed upon any publicly owned treatment works, to structure the fee schedule to provide incentives for water recycling to facilitate the state's goal of maximizing water recycling.~~

~~(2) Existing law regulates recycled water.~~

~~(1) The Water Recycling Law regulates recycled water. That law requires each California regional water quality control board, after consulting with and receiving the recommendations of the State Department of Health Services and any party who has requested in writing to be consulted, and after any necessary hearing, if in the judgment of the board, it is necessary to protect the public health, safety, or welfare, to prescribe water reclamation requirements for water that is used or proposed to be used as reclaimed water.~~

This bill would require a recycled water producer to notify the Department of Transportation and the Department of General Services if the recycled water producer determines that, within 10 years, it proposes to provide recycled water for use for state landscape irrigation that meets certain conditions and would require all pipe installed by those state agencies for landscape irrigation within the area identified by the notice to meet prescribed requirements.

The bill, subject to the appropriation of funds for that purpose, would require the Department of Water Resources, in consultation with the State Department of Health Services, *on or before July 1, 2008*, to adopt and submit to the California Building Standards Commission regulations ~~in the form of~~ *to establish* a state version of Appendix J of the Uniform Plumbing Code to provide design standards to safely plumb buildings with both potable and recycled water systems. ~~The bill would require the Department of Housing and Community Development to submit to the commission, on or before July 1, 2008, an amendment to that state version to remove the skull and crossbones symbol for recycled water and replace it with an international symbol for recycled water.~~

~~(3)~~

(2) This bill would require that its provisions be known as the Water Recycling Act of ~~2005~~ *2006*. The bill would make related legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as
2 the Water Recycling Act of-2005 2006.

3 SEC. 2. (a) The Legislature hereby finds and declares that
4 the Recycled Water Task Force was convened pursuant to
5 Section 13578 of the Water Code and evaluated the current
6 framework of state and local rules, regulations, ordinances, and
7 permits to identify the opportunities for, and obstacles or
8 disincentives to, increasing the safe use of recycled water.

9 (b) It is the intent of the Legislature *that state agencies,*
10 *including the State Department of Health Services, the*
11 *Department of Water Resources, the State Water Resources*
12 *Control Board, and the nine California regional water quality*
13 *control boards, take appropriate steps* to implement the
14 recommendations from the Recycled Water Task Force by
15 enacting the Water Recycling Act of-2005 2006, as a means to
16 help the state meet its goal of recycling 1,000,000 acre-feet of
17 water per year by 2010 in accordance with Section 13577 of the
18 Water Code.

19 ~~SEC. 3. Section 13260 of the Water Code is amended to read:~~
20 ~~13260. (a) All of the following persons shall file with the~~
21 ~~appropriate regional board a report of the discharge, containing~~
22 ~~the information which may be required by the regional board:~~

23 ~~(1) Any person discharging waste, or proposing to discharge~~
24 ~~waste, within any region that could affect the quality of the~~
25 ~~waters of the state, other than into a community sewer system.~~

26 ~~(2) Any person who is a citizen, domiciliary, or political~~
27 ~~agency or entity of this state discharging waste, or proposing to~~
28 ~~discharge waste, outside the boundaries of the state in a manner~~
29 ~~that could affect the quality of the waters of the state within any~~
30 ~~region.~~

31 ~~(3) Any person operating, or proposing to construct, an~~
32 ~~injection well.~~

33 ~~(b) No report of waste discharge need be filed pursuant to~~
34 ~~subdivision (a) if the requirement is waived pursuant to Section~~
35 ~~13269.~~

1 ~~(e) Every person subject to subdivision (a) shall file with the~~
2 ~~appropriate regional board a report of waste discharge relative to~~
3 ~~any material change or proposed change in the character,~~
4 ~~location, or volume of the discharge.~~

5 ~~(d) (1) (A) Each person who is subject to subdivision (a) or~~
6 ~~(e) shall submit an annual fee according to a fee schedule~~
7 ~~established by the state board.~~

8 ~~(B) The total amount of annual fees collected pursuant to this~~
9 ~~section shall equal that amount necessary to recover costs~~
10 ~~incurred in connection with the issuance, administration,~~
11 ~~reviewing, monitoring, and enforcement of waste discharge~~
12 ~~requirements and waivers of waste discharge requirements.~~

13 ~~(C) Recoverable costs may include, but are not limited to,~~
14 ~~costs incurred in reviewing waste discharge reports, prescribing~~
15 ~~terms of waste discharge requirements and monitoring~~
16 ~~requirements, enforcing and evaluating compliance with waste~~
17 ~~discharge requirements and waiver requirements, conducting~~
18 ~~surface water and groundwater monitoring and modeling,~~
19 ~~analyzing laboratory samples, and reviewing documents prepared~~
20 ~~for the purpose of regulating the discharge of waste, and~~
21 ~~administrative costs incurred in connection with carrying out~~
22 ~~these actions.~~

23 ~~(D) In establishing the amount of a fee that may be imposed~~
24 ~~on any confined animal feeding and holding operation pursuant~~
25 ~~to this section, including, but not limited to, any dairy farm, the~~
26 ~~state board shall consider all of the following factors:~~

27 ~~(i) The size of the operation.~~

28 ~~(ii) Whether the operation has been issued a permit to operate~~
29 ~~pursuant to Section 1342 of Title 33 of the United States Code.~~

30 ~~(iii) Any applicable waste discharge requirement or~~
31 ~~conditional waiver of a waste discharge requirement.~~

32 ~~(iv) The type and amount of discharge from the operation.~~

33 ~~(v) The pricing mechanism of the commodity produced.~~

34 ~~(vi) Any compliance costs borne by the operation pursuant to~~
35 ~~state and federal water quality regulations.~~

36 ~~(vii) Whether the operation participates in a quality assurance~~
37 ~~program certified by a regional water quality control board, the~~
38 ~~state board, or a federal water quality control agency.~~

39 ~~(E) For the purpose of establishing the amount of a fee that~~
40 ~~may be imposed upon any publicly owned treatment works~~

1 pursuant to this section, the state board shall structure the fee
2 schedule to provide incentives for water recycling to facilitate the
3 state's goal of maximizing water recycling.

4 (2) (A) Subject to subparagraph (B), any fees collected
5 pursuant to this section shall be deposited in the Waste Discharge
6 Permit Fund, which is hereby created. The money in the fund is
7 available for expenditure by the state board, upon appropriation
8 by the Legislature, solely for the purposes of carrying out this
9 division.

10 (B) (i) Notwithstanding subparagraph (A), the fees collected
11 pursuant to this section from stormwater dischargers that are
12 subject to a general industrial or construction stormwater permit
13 under the national pollutant discharge elimination system
14 (NPDES) shall be separately accounted for in the Waste
15 Discharge Permit Fund.

16 (ii) Not less than 50 percent of the money in the Waste
17 Discharge Permit Fund that is separately accounted for pursuant
18 to clause (i) is available, upon appropriation by the Legislature,
19 for expenditure by the regional board with jurisdiction over the
20 permitted industry or construction site that generated the fee to
21 carry out stormwater programs in the region.

22 (iii) Each regional board that receives money pursuant to
23 clause (ii) shall spend not less than 50 percent of that money
24 solely on stormwater inspection and regulatory compliance issues
25 associated with industrial and construction stormwater programs.

26 (3) Any person who would be required to pay the annual fee
27 prescribed by paragraph (1) for waste discharge requirements
28 applicable to discharges of solid waste, as defined in Section
29 40191 of the Public Resources Code, at a waste management unit
30 that is also regulated under Division 30 (commencing with
31 Section 40000) of the Public Resources Code, shall be entitled to
32 a waiver of the annual fee for the discharge of solid waste at the
33 waste management unit imposed by paragraph (1) upon
34 verification by the state board of payment of the fee imposed by
35 Section 48000 of the Public Resources Code, and provided that
36 the fee established pursuant to Section 48000 of the Public
37 Resources Code generates revenues sufficient to fund the
38 programs specified in Section 48004 of the Public Resources
39 Code and the amount appropriated by the Legislature for those
40 purposes is not reduced.

~~(e) Each person who discharges waste in a manner regulated by this section shall pay an annual fee to the state board. The state board shall establish, by regulation, a timetable for the payment of the annual fee. If the state board or a regional board determines that the discharge will not affect, or have the potential to affect, the quality of the waters of the state, all or part of the annual fee shall be refunded.~~

~~(f) (1) The state board shall adopt, by emergency regulations, a schedule of fees authorized under subdivision (d). The total revenue collected each year through annual fees shall be set at an amount equal to the revenue levels set forth in the Budget Act for this activity. The state board shall automatically adjust the annual fees each fiscal year to conform with the revenue levels set forth in the Budget Act for this activity. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the state board may further adjust the annual fees to compensate for the overcollection and undercollection of revenue.~~

~~(2) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.~~

~~(g) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report of waste discharge submitted under this section.~~

~~(h) Each report submitted under this section shall be sworn to, or submitted under penalty of perjury.~~

1 ~~(i) The regulations adopted by the state board pursuant to~~
2 ~~subdivision (f) shall include a provision that annual fees shall not~~
3 ~~be imposed on those who pay fees under the national pollutant~~
4 ~~discharge elimination system until the time when those fees are~~
5 ~~again due, at which time the fees shall become due on an annual~~
6 ~~basis.~~

7 ~~(j) Any person operating or proposing to construct an oil, gas,~~
8 ~~or geothermal injection well subject to paragraph (3) of~~
9 ~~subdivision (a), shall not be required to pay a fee pursuant to~~
10 ~~subdivision (d), if the injection well is regulated by the Division~~
11 ~~of Oil and Gas of the Department of Conservation, in lieu of the~~
12 ~~appropriate California regional water quality control board,~~
13 ~~pursuant to the memorandum of understanding, entered into~~
14 ~~between the state board and the Department of Conservation on~~
15 ~~May 19, 1988. This subdivision shall remain operative until the~~
16 ~~memorandum of understanding is revoked by the state board or~~
17 ~~the Department of Conservation.~~

18 ~~(k) In addition to the report required by subdivision (a), before~~
19 ~~any person discharges mining waste, the person shall first submit~~
20 ~~both of the following to the regional board:~~

21 ~~(1) A report on the physical and chemical characteristics of the~~
22 ~~waste that could affect its potential to cause pollution or~~
23 ~~contamination. The report shall include the results of all tests~~
24 ~~required by regulations adopted by the board, any test adopted by~~
25 ~~the Department of Toxic Substances Control pursuant to Section~~
26 ~~25141 of the Health and Safety Code for extractable, persistent,~~
27 ~~and bioaccumulative toxic substances in a waste or other~~
28 ~~material, and any other tests that the state board or regional board~~
29 ~~may require, including, but not limited to, tests needed to~~
30 ~~determine the acid-generating potential of the mining waste or~~
31 ~~the extent to which hazardous substances may persist in the~~
32 ~~waste after disposal.~~

33 ~~(2) A report that evaluates the potential of the discharge of the~~
34 ~~mining waste to produce, over the long term, acid mine drainage,~~
35 ~~the discharge or leaching of heavy metals, or the release of other~~
36 ~~hazardous substances.~~

37 ~~(l) Except upon the written request of the regional board, a~~
38 ~~report of waste discharge need not be filed pursuant to~~
39 ~~subdivision (a) or (c) by a user of recycled water that is being~~
40 ~~supplied by a supplier or distributor of recycled water for whom~~

~~a master recycling permit has been issued pursuant to Section 13523.1.~~

~~SEC. 4.~~

SEC. 3. Section 13555.5 is added to the Water Code, to read:

13555.5. (a) If a recycled water producer determines that within 10 years the recycled water producer proposes to provide recycled water for use for state landscape irrigation that meets all of the conditions set forth in Section 13550, the recycled water producer shall so notify the Department of Transportation and the Department of General Services, and shall identify in the notice the area that is eligible to receive the recycled water, and the necessary infrastructure that the recycled water producer or the retail water supplier proposes to provide, to facilitate delivery of the recycled water.

(b) If notice has been provided pursuant to subdivision (a), all pipe installed by the Department of Transportation or the Department of General Services for landscape irrigation within the identified area shall be of the type necessary to meet the requirements of Section 116815 of the Health and Safety Code and applicable regulations.

~~SEC. 5.~~

SEC. 4. Section 13557 is added to the Water Code, to read:

13557. (a) ~~The~~ *On or before July 1, 2008, the* department, in consultation with the State Department of Health Services, shall adopt and submit to the California Building Standards Commission *regulations to establish* a state version of Appendix J of the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials to provide design standards to safely plumb buildings with both potable and recycled water systems.

(b) The department shall adopt regulations pursuant to subdivision (a) only if the Legislature appropriates funds for that purpose.

~~(c) On or before July 1, 2008, the Department of Housing and Community Development shall submit to the California Building Standards Commission an amendment to the state plumbing code adopted pursuant to subdivision (a) to remove the skull and~~

- 1 ~~crossbones symbol for recycled water and replace it with an~~
- 2 ~~international symbol for recycled water.~~